

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WA'IL MANSUR MUHANNAD,)	
)	
Petitioner,)	8:06CV435
)	
v.)	
)	
JAMES P. ROWOLDT,)	ORDER
et al.,)	
)	
Respondent.)	
_____)	

This matter is before the Court on the following sequence of events: on June 15, 2006, the petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. At the same time he filed a motion for leave to proceed *in forma pauperis*. As this is a petition for writ of habeas corpus, the petitioner is obligated to pay a filing fee of \$5.00 before the Court could proceed with consideration of his case. In view of the Court's following determinations, petitioner is now directed to pay the \$5.00 if he wishes to go forward with this case.

On June 19, 2006, the Court entered an order dismissing his § 2241 motion on the grounds that this Court did not have jurisdiction as it was clear from the pleadings that the petitioner was at that time incarcerated in a federal prison in Marion, Illinois. Accordingly, under the law, he was obligated to file a petition under 28 U.S.C. § 2241 in the district where he was incarcerated.

Subsequent to the Court's ruling on petitioner's petition, he was released from prison on parole in Nebraska under the custody of James Rowoldt as the Chief United States Probation Officer. Petitioner then filed a motion for reconsideration. The Court denied the motion for reconsideration and subsequently on August 16, 2006, petitioner filed a notice of appeal, intending to appeal the Court's ruling to the United States Court of Appeals for the Eighth Circuit, as well as a motion to proceed *in forma pauperis* on appeal.

That notice of appeal has not yet been forwarded to the Court of Appeals, and the Court now determines that the motion for reconsideration should be granted and the issues raised by the petitioner addressed in this Court as he is now present in Nebraska and presently serving a term of parole.

The petitioner's petition will not be considered until he has paid the \$5.00 filing fee which cannot be waived by the Court. Petitioner shall until October 2, 2006, to pay that filing fee. Petitioner is also required to effect service on the named defendant. This service shall be in accord with the Federal Rules of Civil Procedure. Accordingly,

IT IS ORDERED:

1) Petitioner shall have until October 2, 2006, to pay the \$5.00 filing fee.

2) The order denying reconsideration is vacated and set aside.

3) Further proceedings will be held in abeyance until the filing fee is paid and petitioner has effected service of summons on the respondent.

DATED this 18th day of September, 2006.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court